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**National Park Service**  
**U.S. Department of the Interior**

Lake Clark National Park and Preserve  
Alaska



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**Finding of No Significant Impact**

**Right-of-Way Certificate of Access Authorization at Silver Salmon Creek in Lake Clark  
National Park and Preserve**


**July 2010**

Recommended: \_\_\_\_\_

  
Superintendent, Lake Clark National Park and Preserve

  
Date

Approved: \_\_\_\_\_

  
Regional Director, Alaska

  
Date

## **FINDING OF NO SIGNIFICANT IMPACT**

### **Right-of-Way Certificate of Access Authorization at Silver Salmon Creek in Lake Clark National Park and Preserve, Alaska July 2010**

The National Park Service (NPS) prepared an environmental assessment (EA) to consider issuing a Right-of-Way Certificate of Access (RWCA) to Dan and Nancy Farrer (inholders) who own private property in the Silver Salmon Creek area within Lake Clark National Park and Preserve. The purpose of the project is to identify the access route, methods of access, and conditions governing use of the route in order to protect park resources and minimize potential impacts to park resources and values.

The NPS has selected Alternative 2. Under this alternative the NPS would issue a RWCA to the applicant for a 0.9-mile trail from the beach to the applicant's property to be used year-round. It would also authorize the Farrers to use ORVs on the 0.6-mile existing Bog Trail for winter-use only during periods of adequate snowcover. A heavy cargo staging area next to the beach at the beginning of the trail would also be authorized.

An attachment to the FONSI provides the NPS's responses to substantive comments received during the comment period. An errata sheet found at the end of this document details changes made to the EA.

### **ALTERNATIVES**

Two alternatives were evaluated in the EA.

#### **Alternative 1, No Action Alternative**

Under the No Action Alternative, the NPS would not undertake any actions to authorize or manage the routes and methods of travel the Farrers use to access their property. Access to the property would continue by routes and methods of the landowner's choice. A formal agreement between the NPS and landowner on route, method, or terms and conditions of access would not be developed.

#### **Alternative 2**

Under this alternative the NPS would issue a RWCA to the Farrers for a 0.9-mile trail from the beach to the applicant's property to be used year-round. A tracked-Argo would be authorized on the 0.6-mile existing Bog Trail for winter-use only during periods of adequate snowcover (Figure 2). A similar vehicle could be authorized with the superintendent's approval. Summer use on the Bog Trail would be prohibited. The RWCA would authorize the Farrers to construct, use ORVs with trailers on the trail, and maintain the trail, and have a cargo staging area on the uplands above the beach on NPS lands. NPS would issue the RWCA under the authority of ANILCA 1110(b) and its implementing regulations at 43 CFR 36.10. The terms and conditions in the RWCA would allow for appropriate maintenance activities. A RWCA permits access; it does not convey property rights.

The 0.9-mile proposed access trail, from the beach to the Farrer's property, would include 0.67 mile of existing trail and require the construction of 2 new trail segments totaling about .23 mile. One new trail segment would allow the access route to skirt private property. It would be about 900 feet on dry ground in a spruce forest. The second new segment, which would parallel the existing trail, would reroute the trail for approximately 300 feet. Local natural materials would be used to stabilize this section to better support the owner's vehicles on fragile soils. This reroute is needed to provide an alternative route when the existing section is impassable.

The trail would be twenty (20) feet wide consisting of a ten (10) foot wide travel surface and two five (5) foot wide brushing strips on either side. The brushing strips allow for trimming vegetation that bends into the travel surface.

The Farrers would be authorized to cut trees within the ten (10) foot wide travel surface during construction of the new trail segments and when maintaining the access route. The Superintendent would authorize the landowner to use a piece of local machinery when constructing the new trail segment around private property. The NPS would approve route selection of the new trail segments prior to construction. The landowner would be authorized to use existing trails while the new trail segments are being constructed. Landowners would be responsible for maintenance activities with NPS oversight and assistance.

The RWCA would also authorize a heavy-cargo staging area within the 20-foot wide ROW in the upland next to, but out of view of, the beach. The beginning of the access trail would be gated with a design and placement approved by the NPS.

Permit stipulations that would regulate volume and pattern of ORV use are listed in the EA.

## **PUBLIC INVOLVEMENT**

The EA was issued for public review and comment from April 22, 2010 to May 29, 2010. A letter announcing the availability of the EA was sent to 18 government agencies, tribal entities, interest groups and individuals. The EA was posted on the Lake Clark National Park and Preserve website and the NPS's Planning, Environment and Public Comment (PEPC) website. Seven comments were received on the EA.

The public comments received did not change the conclusions in the EA about the environmental effects of the preferred action. The NPS responses to substantive public comments are found in the attached errata sheet (Attachment A).

## **DECISION**

The NPS decision is to select Alternative 2 and mitigating measures.

### **Mitigating Measures**

Cultural Resources: A cultural resources survey will be conducted prior to the issuance of the RWCA by a qualified archaeologist on all new trail segments.

If cultural resources are discovered during trail construction or maintenance activities, work would be halted at the discovery site, the discovery would be protected and the Lake Clark

Superintendent or Chief of Cultural Resources would be notified. The site would be evaluated for eligibility for the National Register of Historic Places. Appropriate action would be taken to avoid adverse effects to any eligible cultural properties.

Vegetation and Soils: NPS would periodically survey the ROW for invasive plant species.

For the 300-foot section of rerouted trail, the landowner would use whichever route is in the best condition, possibly alternating years of use to let the muddy spots recover.

To prevent compaction, shearing, erosion, or deposition of soils and substrates under or adjacent to the trail, the RWCA will authorize the use of synthetics such as geotextiles, geoblock, timber cut in the travel surface or from private property in the SSC area, and sand, gravel and rock taken from within the travel surface to prevent the loss of, and damages to, soils and substrates.

NPS will survey the area for invasive weeds prior to trail construction. Ground-disturbing projects will be closely monitored for five years after project completion to ensure that colonizing invasive plants are rapidly found and eradicated

### **Rationale for the Decision**

The selected alternative will satisfy the purpose and need of the project better than the no-action alternative because it protects park resources and values while giving the landowners legal access rights.

Alternative 1 (No Action Alternative) would not give the landowners legal access rights as required by Section 1110(b) of ANILCA, nor would it minimize adverse impacts to protect park resources and values due to unsustainable user-created trails that would continue to be used. Alternative 2 would provide more environmental protection than Alternative 1 by reducing ORV impacts to soils, vegetation, and wetlands by restricting travel on the 0.6 mile Bog Trail to periods of adequate snowcover.

### **Significance Criteria**

The preferred alternative will not have a significant effect on the human environment. This conclusion is based on the following examination of the significance criteria defined in 40 CFR Section 1508.27.

*(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.*

The selected action will create minor adverse impacts to soils, vegetation, and wetlands by authorizing ORV use on 0.9 miles of trail. None of these impacts are significant.

*(2) The degree to which the proposed action affects public health or safety.*

The selected action will not affect public health or safety.

*(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetland, wild and scenic rivers, or ecologically critical areas.*

The selected action will not significantly affect any unique characteristics of the park.

*(4) The degree to which effects on the quality of the human environment are likely to be highly controversial.*

The effects on the quality of the human environment would not be highly controversial. Neither the number of comments received on the EA during the public comment period, nor their content, indicate that a high level of controversy exists regarding the proposed action.

*(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.*

The effects of the selected alternative do not involve unique or unknown risks. The landowners have been operating ORVs on these trails since before the park was established.

*(6) The degree to which the action may establish a precedent of future actions with significant effects or represents a decision in principle about a future consideration.*

The selected alternative would not set a precedent of future actions.

*(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.*

The action is not related to other actions that will amount to cumulatively significant impacts on the environment.

*(8) Degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.*

The degree or possibility that the action may cause loss or destruction of known scientific, cultural, or historic resources is low enough that cultural resources were dismissed as an impact topic in the EA.

*(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.*

No threatened or endangered species are known to occur in the area, except the migratory spectacled and Steller's eiders. These species would be unaffected by EA alternatives because they use the offshore marine area in winter.

*(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.*

The action will not cause a violation of any Federal, State, or local law or requirements for environmental protection.

## **FINDINGS**

Issuing a RWCA to the applicant for a 0.9-mile trail from the beach to the Farrer's property to be used year-round, and authorizing use of ORVs on the 0.6-mile existing Bog Trail for winter-use only during periods of adequate snowcover, and authoriozing a heavy-cargo staging area will give the Farrers legal access to their property while protecting park resources.

The levels of adverse impacts to park resources anticipated from the selected alternative will not result in an impairment of park resources that fulfill specific purposes identified in the establishing legislation or that are key to the natural or cultural integrity of the park.

The selected alternative complies with ANILCA and 2006 NPS Management Policies. There will be no significant restriction to subsistence resources or activities as documented by the Alaska National Interest Lands Conservation Act, Title VIII, Section 810(a) Summary Evaluation and Findings.

The National Park Service has determined that the selected alternative does not constitute a major federal action significantly affecting the quality of the human environment. Therefore, in accordance with the National Environmental Policy Act of 1969 and regulations of the Council on Environmental Quality (40 CFR 1508.9), an environmental impact statement is not needed and will not be prepared for this project.

**ATTACHMENT A**  
**NPS RESPONSES TO SUBSTANTIVE PUBLIC COMMENTS AND ERRATA**

**Right-of-Way Certificate of Access Authorization at Silver Salmon Creek in Lake Clark  
National Park and Preserve, Alaska  
July 2010**

This attachment amends the subject environmental assessment (EA) and provides NPS responses to public comments.

**PUBLIC COMMENTS**

The NPS received 7 public comments: two from the State of Alaska, one from Southcentral Foundation, one from National Parks Conservation Association, and three from local landowners. All comments were generally supportive of the NPS Preferred Alternative.

Described below are the substantive comments and the NPS response. A substantive comment is defined as one which leads the NPS to: (1) modify an alternative, including the proposed action; (2) develop and evaluate an alternative not previously given serious consideration; (3) supplement, improve, or modify the environmental analysis; or (4) make factual corrections (CEQ NEPA Regulations 1503.4).

**State of Alaska**

**Comment 1:** We understand the Service worked closely with the private property owners to assess and document their right of access pursuant to ANILCA Section 1110(b) and appreciate the proposed action and stipulations reflect both the need to provide such access and to protect park resources. We support the Service's intention to issue the RWCA, with the understanding that the proposed permit stipulations in the EA are specific only to this right-of-way and that it will also include the following standard condition we found in other RWCAs issued by the Service: "This RWCA may be amended to adjust the terms and conditions for changed conditions, to correct oversights, or to address conditions not previously contemplated. Either the NPS or Holder may initiate an amendment..."

**NPS Response:** *The language cited above will be included in the RWCA issued to the inholder by the NPS. It will state: This RWCA may be amended to adjust the terms and conditions for changed conditions, to correct oversights, or to address conditions not previously contemplated. Either the NPS or Holder may initiate an amendment by notifying the other in writing and providing a justification for the proposed revision or supplement. Amendments by mutual consent of the NPS and Holder may occur, but the NPS may also require an amendment without the consent of the Holder if uses within the area authorized by this RWCA or other conditions become inconsistent with the regulatory standards of Title 43 CFR 36.9 and 36.10(e)(1). The NPS will consult with the Holder when any amendment is initiated. Any amendment must result in the Holder continuing to have adequate and feasible access to his/her property.*



## **Organizations and Individuals**

**Comment 2:** We are unclear about the status of the existing trail that is being "rerouted" for 300 feet. You say this is being done "to provide an alternative route when the existing section is impassable." You further suggest that the landowner can corduroy the new route to better protect against impacts to the vegetation and wetlands. Yet it would seem to us that if the existing section is impassable at any time, and you are building up the base of the new route with corduroy or some other trail hardening method, then you should focus all of the travel onto the new alternative route. Yet the mitigation section suggests that you might annually alternate between the new section and the existing section "to let the muddy spots recover." This suggests that the new route might be muddy, even with the corduroy. And if the existing route is muddy enough to warrant the reroute, why would you ever allow it to be used in its current condition? We saw nothing in the EA that discussed improving the tread of the existing trail, yet that seems like something you'd want to consider if you indeed might actually annually alternate between the two sections. Maybe we missed something in reading the EA, but we would suggest that 1.) the corduroyed reroute be designated as the primary route and 2.) should there be a need to alternate routes "to let the muddy spots recover" then some work needs to be done on the existing trail to better improve its surface. Could it be corduroyed as well?

***NPS Response:** NPS appreciates the concern about impacts to park resources. The existing 300-foot trail becomes wet during parts of the year and is impassible with a variety of motor vehicles. In this particular case, due to the wet nature of the area, NPS cannot guarantee access via this trail segment. The inholder requested use of two parallel segments in this location because it is conceivable that despite efforts to harden the route, one of the segments, including the new segment, may be impassible at any given time. As the comment suggests, the inholder may harden both segments of the route to create the most sustainable trail segments as possible. NPS will clarify this in the Errata by adding a permit stipulation that allows the inholder to harden any part of the ROW in order to improve its durability. NPS has considered options for this section of the ROW including rerouting the trail into upland areas and using geobloc to harden the trail (some of these are discussed in the Alternatives Considered but Dismissed section of the EA); however, none of these proved to be feasible solutions. The reality is that this area is not ideal for trail construction and use, but the inholder is guaranteed access to their property. In this case, the NPS is willing to accept some minimal impacts to vegetation and soils to provide the inholder a reasonable route to their residence.*

**Comment 3:** How often does the Park Service anticipate inspecting the trail for not only invasive plants (which the EA says you will "periodically survey") but also to determine the condition of the trail? Based on the description of the 300-foot reroute, this area is wet and needs to be monitored regularly, at least at the beginning and end of the season. To determine if the corduroy is working and/or to determine if the "alternate route" needs to be used. Monitoring would also let you know if something entirely different needs to be considered if the impacts to park resources become too much.

***NPS Response:** The NPS agrees that the ROW should be monitored, both to inspect for invasive plants and also to inspect the condition of the trail. The NPS staffs a ranger cabin on the Silver Salmon Creek coast and NPS staff periodically contact the inholder*



*throughout the summer season. NPS will add to the mitigation measures a commitment to inspect the ROW to determine if trail hardening methods are working and if another approach to protecting park vegetation and soils is warranted.*

**Comment 4.** The map shows the starting point of the access trail in a place that isn't used. We talked about the trail being to the north of the beach cabin and pointed out this trail as we walked by Tuesday. That's the trail we thought was on the map. That trailhead has a well established trail and a good staging area out of sight.

**NPS Response:** *NPS will make the change to the map and note the change in the ERRATA.*

## **ERRATA**

This errata section provides clarifications, modifications or additional information to the EA. These amendments do not significantly change the analysis of the EA and, therefore a new or revised EA is not needed.

1. The starting point for the right-of-way should be drawn about 40 feet north of where it's drawn on the map. This change is reflected on the revised map. **[correction]**
2. A permit stipulation will be added that allows the inholder to harden any part of the ROW in order to improve its durability. **[clarification]**
3. A mitigation measure will be added that commits the NPS to periodically inspect the ROW to determine if trail hardening methods are working and if another approach to protecting park vegetation and soils is warranted. **[modification]**

Figure 2. Silver Salmon Right of Way Certificate of Access  
Lake Clark National Park and Preserve

Alaska Region  
National Park Service  
U.S. Department of the Interior

